



**Medical Quality Assurance Commission
Friday April 13, 2007
Business Meeting Minutes**

Medical Commission Members

Cabell Tennis, Public Member, Chair
Samuel Selinger, MD, 1st Vice-Chair -Absent
Kenneth Cogen, MD, 2nd Vice-Chair
Les Burger, MD
Athalia Clower, PA-C-Absent (Hearing)
Bruce Cullen, MD
Fredrick Dore, MD
Theresa Elders, Public Member
Thomas Green, MD-Absent (Hearing)
Ellen Harder, PA-C
Susan Harvey, MD

Frank Hensley, Public Member
Clifford Herman, MD
William Gotthold, MD
Hampton Irwin, MD
Chelle Moat, MD
Judith Page, Public Member
Linda Ruiz, Public Member
Rogelio Ruvalcaba, MD
V. Sambasivan, MD-Absent
Judy Tobin, Public Member-Absent (Hearing)

Department of Health Staff:

Blake Maresh, Executive Director
George Heye, MD Medical Consultant
Dani Newman, Compliance Officer
Michael Farrell, Staff Attorney
Jim McLaughlin, Staff Attorney
Erin Obenland, Disciplinary Manager

Maryella Jansen, Deputy Exec Director
Beverly Thomas, Program Manager
Mike Weisman, Staff Attorney
Joe Mihelich, Office Assistant
Mike Bahn, Staff Attorney
Bob Horner, Licensing Manager

Others in Attendance

Mick Oreskovich, MD, WPHP Director
Rita Rakestraw, UW Admin Staff
Amity Neumeister, UW Admin Staff

Pam Anderson, AAG Advisor
Bettina Acosta UW Admin Staff
Gabreille Pett, UW Admin Staff

BUSINESS MEETING

CALL TO ORDER

Commission Chair Cabell Tennis, JD called the meeting of the Washington State Medical Quality Assurance Commission (MQAC) to order at 8:00 a.m. on April 13, 2007 at the Holiday Inn Select, One South Grady Way, Renton, WA 98033.

CHAIR REPORT

The Chair opened the meeting with his report. He reminded the Commission of the purpose of their work established by the legislature and the way in which they are presently striving to carry out the purpose. He quoted from RCW18.71.002 the following:

“It is the purpose of the medical quality assurance commission to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state of Washington.”

The Chair described their scope of authority and responsibility as being the regulators of the practice of medicine in Washington by ensuring those physicians and physician assistants who are licensed meet consistent standards of practice and continuing competency, and oversee the discipline of those who fail to provide medical care safely. He added that the Commission was empowered to develop rules, policies and procedures to carry out the purpose of delivering quality health care. He reminded the Commission that a number of task force groups were created to focus on the purpose.

The Chair reported on all the activities the Executive Committee had been involved in during the legislative session opposing HB1103, including his testimony in the House Health and Wellness Committee. Frank Hensley testified in the Senate along with other boards and commissions.

The Chair stated from his perspective and that of the Executive Committee that it is extremely important for Commission to take seriously their responsibility and authority to regulate the practice of medicine beyond discipline, as important as it is. Each of the task groups will play an important role 1) in shaping a joint operating agreement through which the Department can support the Commissions work 2) developing a role in the formation of the budget that fairly and fully funds the work of the Commission, 3) setting a criteria and developing rules for continuing competency 4) drafting and setting sanctioning guidelines that are tailored to the practice of medicine and 5) continuing the work to develop rules for office-based surgery and non-surgical cosmetic procedures. The Chair asserted that every member of the Commission has a role to play in these committees or task force groups. He stated the excellent staff can be depended upon to fully share in the work.

The Chair closed his report by stating as summer comes we will begin saying goodbye to those members who have served their term. He also stated that Dr. Clifford Herman had submitted his resignation to the Governor's Office. He asked Dr. Herman to share his decisions and his plans for the future.

1.0 CONSENT AGENDA

The consent agenda contained the following items for approval:

- 1.1** Agenda for April meeting as published
- 1.2** Minutes from the February 23, 2007 meeting
- 1.3** Ratifications of Licenses

MOTION: The Chair entertained a motion to approve the consent agenda as published. The motion was seconded and approved.

2.0 COMMITTEE REPORTS

PUBLIC POLICY COMMITTEE

2.1 Credentialing of practitioners who have retired or not practiced for an extended amount of time.

Beverly Thomas, Program Manager, stated there has been an increase of applicants who have been retired or not in practice for an extended period of time (up to or even over ten years). She indicated the Commission did not have a consistent approach in approving these applications. Dr. Burger stated that he reviewed the standards of other states (by rule or policy) on the credentialing of applicants who have been retired or not practicing for extended amount of time and felt a three year period should be considered before requiring the physician to take an appropriate examination.

Ms. Thomas stated that the Commission has authority by rule to require an applicant to take the Special Purpose Examination or any other examination the Commission deemed appropriate to ensure the applicant's competency. However, the rule is not clear as to how long is too long.

Policy Committee Chair Ellen Harder, PA-C reported their recommendation of the committee is to create an interpretative statement of the WAC to clarify that the Commission will require an appropriate examination if the applicant has been retired or out of practice for a presumptive three years or more as a method to measure minimal competency to ensure the safety of the patients in Washington State.

MOTION: The Chair entertained a motion to develop an interpretive statement regarding the credentialing of practitioners who have been retired or out of practice for an extended period of time. The applicant will be required to take an appropriate examination if the applicant is retired or out of practice for a presumptive three years or more. The motion was seconded and approved.

2.2 Fellowships and Teaching Research Limited Licenses.

Ms. Thomas reported on a conflict with two statutes regarding the credentialing of the teaching-research and fellowship limited licenses. She asked the Commission to consider beginning the rules process to clarify and eliminate the conflict specific to those limited licenses.

Ms. Thomas reported that four representatives from the University of Washington's School of Medicine were present and were in favor of assisting the development of the rules.

MOTION: The Chair entertained a motion to begin the rule writing process on clarification of the teaching-research and fellowship limited licenses. The motion was seconded and approved.

2.3 Moving Cases from Intake to Investigation MD 2007-01

Ms. Thomas recommended removing the language prohibiting case closures during a Case Management Team (CMT) in the proposed policy. She reported there may be times which there are three Commission Members on the CMT panel which constitutes a disciplinary panel according to statute. She indicated this would be helpful for those cases closed by three members and eliminate repeating a case needing to be closed at CMT during an IRP panel.

Chelle Moat, MD reported on the committee's recommendation to remove the language prohibiting of closing cases during CMT.

MOTION: The Chair entertained a motion to approve removing the language prohibiting case closure during CMT. The motion was seconded and approved. The policy will be brought back for adoption.

2.4 Release from a Stipulation to Informal Disposition - MD 2007-03

Ms. Thomas reported that the proposed revisions the policy on Release from Stipulations to Informal Dispositions had been approved by the Department and contain the requirement for the Commission to get a copy of the letters for release they requested.

Ms. Harder reported the committee's recommendation to adopt the proposed policy.

MOTION: The Chair entertained a motion to approve and adopt the revise Policy MD 2007-03. The motion was seconded and approved for adoption.

2.5 Delegation of Authority for Credentialing, Disciplinary and Rulemaking MD 2007-05.

Ms. Thomas explained the proposed update to the Delegation of Authority to reflect the new staff and to eliminate the physician assistant consultants as part of the delegation. She indicated that the format was changed and will be brought back to the Commission on a regular basis to approve. She reported adding two items to the policy for clarification 1) A Commissioner approves any physician assistant practice plans if the supervision time is less than 10%. 2) Utilize protem members to review non-routine applications.

MOTION: The Chair entertained a motion to approve the language of the Policy on Delegation of Authority for Credentialing, Disciplinary and Rulemaking. The motion was seconded and approved.

2.6 Reducing Continuing Medical Education for Retired Physicians.

Ms. Harder reported on a letter received by the Chair requesting the Commission consider reducing the continuing medical education for retired physicians. She reported that Hampton Irwin, MD Terri Elders, Public Member, and Ms. Thomas will study the issue and report back.

ACTION TAKEN: No action taken.

2.7 Desire to Invite the Legislators

Ms. Harder reported the committee's discussion regarding inviting the Legislators at this time. She indicated that the committee would like a more in-depth discussion with Pam Anderson, AAG before making a recommendation.

ACTION TAKEN: No action taken.

3.0 TASK GROUP REPORTS

3.1 Joint Operating Agreement – Frank Hensley, Public Member

Mr. Hensley reported on the Joint Operating Agreement (JOA) task group's first meeting on April 11, 2007. He indicated that there was significant discussion on the process and the history of the JOA. He stated the JOA task group and the Finance task group will need to meet to establish goals, priorities, and a business plan. Mr. Hensley reported a business plan will be important in directing resources for the Commission and an integral part of the JOA development and review.

3.2 Finance – Les Burger, MD

Dr. Burger reported on the Finance task group's first meeting on April 12, 2007. He indicated that the financial, budget and allotment process were discussed. He stated the 2007-2009 biennium allotments were well into the process. Dr. Burger indicated there may be a possibility of getting one or two items in for allotment consideration. He asked members submit suggestions to him for discussion at the next meeting.

The Chair mentioned that the budget process will be long term and would like to work together with the Department of Health.

3.3 Continuing Competency – Chelle Moat, MD

Dr. Moat reported the Continuing Competency task group has not met. She indicated there is a lot of work that needs to be done before they meet.

3.4 Sanction Guidelines – Judy Tobin, Public Member

No Report

4.0 OTHER BUSINESS

4.1 Legislative Report

Blake Maresh, Executive Director and Maryella Jansen, Deputy Executive Director reported on the Legislative bills that have passed or still may have some impact on the Commission.

- ESHB 1103 is dead, unless it is added on another bill.
- ESHB 1414 regarding ambulatory surgical facilities.
 - This bill gives the MQAC, Board of Osteopathic Medicine and Podiatry Board the authority to write rules on Office-Based Surgery. Ms. Jansen commented that ESHB 1414 defines the ambulatory surgical facilities as an out patient surgery that does not require overnight stay.
- ESSB 6032 regarding Medical Use of Marijuana. The bill passed both houses.
 - The Department of Health must come up with a definition of a maximum 60 day supply of marijuana for an individual qualified patient.
 - The Department must also make a report on how the patients will be able to access and to ensure safe, consistent and secure sources for those patients that are qualified to use medical marijuana.
- ES22B 5930 regarding the Blue Ribbon Commission to prove high quality affordable health care to all Washingtonians.

4.2 Disciplinary Performance Measure

ACTION TAKEN: Defer

4.3 Sanctioning Guidelines

ACTION TAKEN: Defer

4.4 2007, 2008 and 2009 Meeting Schedules

The Commission decided to change the October Workshop dates to October 17-19, thus moving the next commission meeting to November 28-30. The Commission also discussed the 2008 and 2009 dates because the hearing and compliance schedule goes off of the Business meeting.

MOTION: The Chair entertained a motion to amend the 2007 schedule for the October and November meeting dates and to approve the dates for the 2008 and 2009 Meeting Schedules. The motion was seconded and approved.

4.5 Nomination Committee for the 2007 Election for the Chair, 1st Vice-Chair and 2nd Vice-Chair.

Ms. Thomas stated the Commission by-laws require at least one member from prior Nominating Committees to be on the current Nominating Committee. She also requested for three members to form a nominating committee for the July 2007 elections of Commission Officers.

MOTION: The Chair entertained a motion to suspend the By-laws for this years Nominating Committee. The motion was seconded and approved.

Dr. Moat, Dr. Cogen and Judy Page, public member volunteered to be on the Nominating Committee. Dr. Cogen will be the chair of the committee.

4.6 2007 Workshop Planning Committee

Ms. Thomas asked for volunteers to be on the 2007 Workshop Planning Committee. Dr. Moat, Dr. Gotthold, and Ms. Elders volunteered to work with Ms. Thomas. Ms. Elders indicated that if any member has suggestions to let one of them know.

5.0 MEMBER REPORTS

5.1 Other Members Reports - Chelle Moat, MD – North West Regional Rural Health Conference

Dr. Moat reported that she and Mike Farrell, Staff Attorney attended the NW Regional Rural Health Conference in Spokane. She said the theme of the conference was balancing the Tension in Public Healthcare. She reported their presentation was on recruiting and licensing physicians in rural areas especially foreign medical graduates. Dr. Moat indicated that there were several representatives from Department of Health to help answer questions regarding the J-1 Visas.

6.0 STAFF MEMBERS REPORTS

6.1 Executive Director Report

Mr. Maresh reported on the details of the Washington State Supreme Court Decision on the clear and convincing standard of proof for all professions (Ongom case). He stated that the Assistant Attorney General office has filed a petition with the United States Supreme Court to review the case, and that he had been working with the Federation of State Medical Boards and Administrators In Medicine to secure their support in the case.

Mr. Maresh reported on the upcoming Citizens Advocacy Center (CAC) annual meeting at the Edgewater Hotel in Seattle, WA on October 29-31, 2007. He will provide more information on the agenda at a later date.

Mr. Maresh briefly mentioned the end of biennium is near and there is enough allotment in the division of HPQA for some equipment and additional allotment for printing and mailing cost of revised law books and for a newsletter was also suggested by staff. He also mentioned trying to provide some additional staff support for Ms. Thomas.

Mr. Maresh reported that the performance auditors have completed most of their field work that they needed from HSQA offices. The auditors will be starting drafting their report. The final report is scheduled to be completed by June 30, 2007.

Mr. Maresh reported on the progress of the Integrated Licensing and Regulatory System (IRLS). He indicated they will begin implementing parts of the new system in August and full implantation in February 2008. Ms. Elders suggested a demonstration should be part of the October's workshop.

Mr. Maresh reported the physician and physician assistant renewal fees will return to their original published level on July 1, 2007. This is a first step in helping to assure continued adequate funding. Additional fee increases may also be possible in the next biennium.

6.2 Deputy Executive Director Report

Ms. Jansen reported that Ms. Vicki Creighton a long time employee of the Commission, had retired and wanted to thank Ms. Creighton publicly for all the work she had done. She also reported Claudia Sobol has changed positions and her last day would be April 20, 2007. She indicated that staff members were helping one another to help fill the void until the positions can be filled.

6.3 Program Manager Report

Ms. Thomas reported that she has been very busy with the work on the two rules. She reported that she and Dr. Selinger had given a presentation to the Washington State Medical Association Inter-specialty Committee on March 17, 2007 regarding the Office-Based Surgery background, the Non-Surgical Cosmetic Procedures background and information on the Commission's concern about the delegation of unlicensed practice.

- Safe and Effective Administration of Analgesia and Anesthesia in Office-Based Surgery

Ms. Thomas reported that there have been public rule workshops and two more in Vancouver and Wenatchee scheduled. She reported that after her presentation to the Board of Osteopathic Medicine and Surgery they made a motion to join the Commission in its rule development. She indicated she was scheduled for the Podiatric Board of Medicine April 19, 2007. She reported that there has been no opposition to the rule development. ESHB 1414 continues to provide statutory authority for the Commission to write rules.

- Delegation of Non-Surgical Cosmetics Procedures.

Ms. Thomas reported that the Non-Surgical Cosmetic Procedures rule documentation had been filed with the Code Revisers Office and that two public workshops were scheduled for Spokane and Olympia. Ms. Thomas reported that she and Dr. Selinger met with the Nursing Quality Assurance Commission in Spokane. The NQAC indicated they would let the Commission know if RNs and LPNs can perform the non-surgical cosmetic procedures being considered for the rules.

6.4 Disciplinary Manager Report

Ms. Obenland reported the disciplinary unit is down 2.5 positions. Ms. Obenland stated they are in the process of filling those positions. She also indicated that she appreciates Mike Kramer helping out in the Intake area. She stated while the positions are vacant she will be emailing members to be on hearings panels.

Ms. Obenland stated she will have sign up sheets for Case Management Teams (CMT) and Initial Review Panels (IRP) phone calls and will remind members. She said the schedules would be sent to members.

6.5 Medical Consultant Report

Dr. Heye announced that Bill Crowell, PA-C is the new President elect of the Washington Academy of Physician Assistants. He reported a concern about the attention that ultra sounds may be getting. He indicated he was not aware if there are any problems in the past with ultra sounds. Dr. Irwin suggested there could be a problem in failure to diagnosis. Dr. Harvey stated there is some data that shows ultra sounds increase the temperature of the fetus. She indicated that although there is a growing trend for mothers to get multiple ultra sounds the OB/GYN specialists discourage mothers to get ultra sounds unless ordered by the physician.

7.0 ADJOURNMENT

The Meeting adjourned at 10:15 a.m.

Respectfully submitted by

Joe Mihelich, Office Assistant 3

June 1, 2007

Cabell Tennis, JD, Chair
Medical Quality Assurance Commission